



EMPLOYMENT TRIBUNALS

Claimant: Mr I Gothard

Respondent: Tom W Beaumont Limited

Heard at Leeds by CVP

ON: 22 May 2025

BEFORE: Employment Judge Shulman

REPRESENTATION:

Claimant: In person

Respondent: Ms H May, Director, representing the respondent

JUDGMENT

The claimant's claim for unfair dismissal is hereby dismissed.

REASONS

1. Claim

1.1. Unfair dismissal.

2. Issues

2.1. What was the reason for the dismissal?

2.2. Whether the dismissal was fair, including whether fair procedures were followed by the respondent in dismissing the claimant.

3. The Law

3.1. This can be found in Section 98(1)(2)(b) and (4) Employment Relations Act 1996.

4. Facts

The Tribunal having carefully reviewed all the evidence (both oral and documentary) before it finds the following facts (proved on the balance of probabilities):

- 4.1. The claimant was employed as a driver from 12 October 2020 until his dismissal on 15 July 2024 by the respondent, a company in the business of recovery of sorted materials.
- 4.2. The starting incident, out of which the claimant's dismissal occurred, was on 26 June 2024, when the claimant was requested to go to a regular customer of the respondent with a load. The claimant informed the respondent by WhatsApp that "plans had already been made sorry can't do that at drop of a hat." Although the claimant was contracted to do 16 to 30 hours weekly the Tribunal finds that the claimant was well within his hours on that day and his hours that day were 7.5 hours. Before the Tribunal the claimant accepted that he had refused the job, although he went on to do it. When asked by the Tribunal why the claimant refused the job he said his words were a bit of a banter, then he said he panicked, but none of this had come out in the investigation by the respondent, the claimant saying instead that he had a doctor's appointment at 12 noon, which turned out to be he said 12.30pm.
- 4.3. On the same day Ms H May, who gave evidence before the Tribunal in addition to the claimant, wrote to the claimant referring to the doctor's appointment (timed then at 12 noon) asking for evidence that there was an appointment.
- 4.4. The claimant was not co-operating with regard to this despite the fact that he had been put on notice as early as 26 June 2024 by WhatsApp from Ms May that his job was on the line because of the refusal to do the job and not at that stage because he had refused to give evidence to her about his appointment.
- 4.5. On 8 July 2024 the claimant attended a disciplinary hearing for refusal to do the job, failure to inform Carl, his line manager, about the doctor's appointment (which was subsequently dropped by the respondent) and failure to provide evidence of the appointment with the doctors.
- 4.6. As to the evidence of the doctor's appointment the Tribunal saw an undated text, apparently from the claimant's partner, showing the appointment on 26 June 2024 at 12.30pm. The respondent did not accept this evidence as it was not an official communication from the doctor's surgery.
- 4.7. The respondent went about its own investigations in relation to the appointment and on 8 July 2024 asked for confirmation from the claimant's doctor's surgery of the claimant's appointment on 26 June 2024. The surgery said that the claimant's consent would be required for such information.
- 4.8. On 9 July 2024 the claimant says he receives what can only be termed as a bizarre telephone call from a doctor's surgery (Mirfield Medical Centre) asking that the claimant release all his medical records to the respondent and this the claimant says put him off releasing anything to the

respondent. At the outset of the hearing the claimant told the Tribunal that he agreed that the respondent only asked for the appointment and that the claimant attended it.

- 4.9. In any case on 11 July 2024 the respondent wrote to the claimant asking to give authority to the surgery to give the respondent information about that appointment, namely, that it had been booked in advance and that the claimant attended. The claimant was still not co-operating.
- 4.10. On 15 July 2024 the disciplinary hearing, which had been adjourned from 8 July 2025, was reconvened. The Tribunal heard a recording of that hearing in which the claimant refused to give the authority. On that date the claimant was dismissed because he refused to carry out a reasonable request on 26 June 2024, when the claimant said he would not go a job because he had a doctor's appointment and because the claimant failed to provide evidence of the doctor's appointment. The respondent did not produce initially to the Tribunal a copy of its disciplinary policy. The Tribunal asked for it. In it was an instance of gross misconduct upon which the respondent said it relied, namely, that the claimant's actions caused to the respondent to lose faith in the claimant's integrity. This did not find itself into the dismissal letter. The claimant was given a right of appeal.
- 4.11. The right of appeal was extended at the claimant's request but never taken up because the claimant said he was waiting for evidence but instead of telling the respondent he was so waiting the claimant just threw his right of appeal in.
- 4.12. In the event, the claimant admits that initially he refused the job. Further the Tribunal finds no good reason provided by the claimant for refusing to provide the authority to the respondent so that it could get information from the surgery in order to satisfy itself one way or another that the claimant was telling the truth.

5. Determination of the Issues

(After listening to the factual and legal submissions made by and on behalf of the respective parties):

- 5.1. The Tribunal finds that the reason for the claimant's dismissal was conduct and that it was the conduct of refusal to co-operate concerning the doctor's appointment information that the Tribunal finds tipped the balance.
- 5.2. The respondent adopted fair procedures and in particular there was a disciplinary hearing which was appropriately adjourned and a right of appeal which the claimant did not take up.
- 5.3. Was it fair to terminate the claimant's employment for gross misconduct? Certainly the claimant initially refused to do the job but then he did do it, albeit under Ms May's guiding hand. That alone may not have been sufficient to amount to gross misconduct but the claimant did and has done nothing to help himself by refusing to assist the respondent concerning his doctor's appointment. By not doing that he cast the hand of suspicion upon himself and raised the bar of trust as between himself and his employer. One will never know if the disclosure had been made

what the result might have been. The truth is the claimant did not make the disclosure and so he left the respondent with no alternative than to dismiss him.

- 5.4. In all the circumstances the claimant's claim for unfair dismissal is hereby dismissed.

J Shulman

Approved by Employment Judge Shulman

Date: 27 May 2025

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